

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of

Petition of Bell Atlantic for Forbearance from
Section 272 Requirements in Connection with
National Directory Assistance Services

CC Docket No. 97-172
DA 99-2345

RESPONSE OF BELL ATLANTIC

The two dominant long distance companies have filed comments on Bell Atlantic's petition for forbearance.¹ MCI does not oppose the petition or try to distinguish the relief it seeks from that which the Commission has already granted U S WEST.² Most of AT&T's comments deal with issues that are not relevant to the substance of Bell Atlantic's petition. Where AT&T does try to address the merits, it ignores the *Forbearance Order*, as all the reasons it gives to deny Bell Atlantic's petition would have applied with equal force to the U S WEST's petition, which the Commission granted.

Excell also does not oppose Bell Atlantic's petition. It only asks that additional conditions be imposed, over and above those in the *Forbearance Order*. Excell does not demonstrate that the Commission's previous order was incorrect or inadequate, and no additional requirements should be imposed now.

¹ New York Telephone Company and New England Telephone and Telegraph Company.

² *Petition of U S WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance*, Memorandum Opinion and Order, CC Docket No. 97-172 (rel. September 27, 1999) ("*Forbearance Order*").

The AT&T Comments

Perhaps because it has no grounds for opposing Bell Atlantic's petition, most of AT&T's filing makes a variety of arguments that are not relevant to the forbearance request.

AT&T points out that the Commission adopted its order in June and criticizes Bell Atlantic for waiting until October before filing its petition.³ But all the Commission did in June was issue a News Release — the order was not issued until almost three months later. There was no way that Bell Atlantic could say that it would comply with the Commission's conditions until it knew what they were. Moreover, as that Release itself stated, "This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action." It was perfectly reasonable for Bell Atlantic to wait for the Commission's "official action" before taking steps to restructure its business and make its filings.

AT&T next criticizes Bell Atlantic for filing this petition for only some of its states and complains that Bell Atlantic "apparently intends to continue to provide NDA unlawfully in the southern half of its territory."⁴ AT&T ignores the fact that Bell Atlantic filed another forbearance petition for those states on November 5 and served that petition on AT&T a full week before AT&T filed these comments.⁵ Moreover, as different serving arrangements were required, it was appropriate for them to be handled separately.

³ AT&T at 5. MCI makes a similar observation. MCI at 2.

⁴ AT&T at 7.

⁵ MCI and AT&T ask that the Commission sanction Bell Atlantic. That request is without merit and, in any event, has no place in this proceeding. Moreover, Bell Atlantic began discussions with Commission staff as soon as it had analyzed the text of the decision and the options available to it.

AT&T also criticizes Bell Atlantic for not mentioning the *Forbearance Order* in its long distance application for New York.⁶ However, that order was released only hours before Bell Atlantic filed its application. In any event, AT&T's histrionics are completely irrelevant to the question of whether the Commission should grant the instant forbearance petition.

When AT&T finally does get to its discussion of the section 10 forbearance requirements, it has no objection to Bell Atlantic's petition that would not also apply to the *Forbearance Order* itself. In this vein, AT&T complains that Bell Atlantic has not told the Commission just how it will comply with the continuing nondiscrimination requirements of section 272(c) and how it will enable others to verify such compliance,⁷ and that Bell Atlantic cannot satisfy the public interest test because it has "refuse[d] to comply with the requirements of the Act."⁸ All these statements, of course, would apply to U S WEST under the *Forbearance Order*.⁹

Perhaps most extreme, AT&T finds fault with Bell Atlantic's petition because AT&T does not understand what the words "purchase" and "own" mean.¹⁰ The Commission has said that to satisfy section 271(g)(4) "a BOC must own the information storage facilities."¹¹ The first

⁶ AT&T at 6.

⁷ AT&T at 9.

⁸ AT&T at 10.

⁹ Bell Atlantic offers regionwide listing information to unaffiliated entities on the same rates, terms, and conditions it imputes to itself. Bell Atlantic filed its cost allocation manual modification on October 18. Bell Atlantic makes directory listing information of the customers of independent and competitive LECs operating in its region available to unaffiliated entities if it uses it for its own nonlocal directory assistance service. Bell Atlantic updates and maintains the regional directory listing information it provides to unaffiliated entities in the same manner it updates and maintains such information it uses in the provision of nonlocal directory assistance service.

¹⁰ AT&T at 11-12.

¹¹ *Forbearance Order* ¶ 27.

page of Bell Atlantic's petition said that "all the directory assistance information is contained in information storage facilities owned by Bell Atlantic." On the next page, Bell Atlantic explained that the "information storage facilities were owned by VoltDelta, but have been purchased by Bell Atlantic." This is sufficient. There is no requirement that Bell Atlantic "disclose the precise terms of its agreements with VoltDelta."¹²

The Excell Comments

Excell asks for three additional conditions:

First, it asks the Commission to decide in this proceeding how new rules that it might adopt in a separate rulemaking would apply to Bell Atlantic.¹³ These issues will properly be addressed in that rulemaking.

Second, Excell complains that Bell Atlantic has offered Excell different pricing terms, in particular minimum purchase requirements, than Bell Atlantic offers to carriers for the same information and that the Commission should prohibit a Bell company from doing so.¹⁴ Excell is wrong on the facts. Excell asked Bell Atlantic to provide listings for all its customers so that Excell could provide directory assistance service. The contract Bell Atlantic offered — a package containing all current listings plus updates for one year — is exactly the same as Bell Atlantic offers to any other customer, carrier or non-carrier.¹⁵ The 60,000,000 figure was Bell

¹² AT&T at 11.

¹³ Excell at 6-7.

¹⁴ Excell at 7-8.

¹⁵ The condition in the *Forbearance Order* was added to ensure that others could provide national directory assistance services. Such providers would naturally need all Bell Atlantic's listings, not just a portion of them.

Atlantic's best estimate of the total number of listings it would provide in a year, and the total price would be adjusted up or down depending on the number of listings actually provided.

Third, Excell is worried that, under section 272(f)(1), the conditions of any forbearance order would no longer apply three years after Bell Atlantic has obtained in-region interLATA authority under section 271(d) in all its states.¹⁶ Whether or not this concern is justified, it is certainly premature. The Commission should deal with this issue when it becomes a reality, in light of the marketplace conditions at the time.

The relief Bell Atlantic seeks is the same as the Commission has granted to U S WEST, and it should be granted on the same terms without the additional conditions Excell proposes.

Conclusion

Bell Atlantic respectfully requests that the Commission grant its petition.

Respectfully submitted,



John M. Goodman

Attorney for Bell Atlantic

1300 I Street, N.W.
Washington, D.C. 20005
(202) 336-7874

Michael E. Glover
Of Counsel

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¹⁶

Excell at 9-10.